Manhattan Institute paid GlobalTox $40,000 to make revisions in that statement," Kelman was being cross-examined about revisions to the ACOEM paper and stated he had participated in making revisions after turning in the first draft. In context, the question about being paid to "make revisions in that statement" was ambiguous and a reasonable jury could conclude Kelman interpreted the question as asking whether he had been paid $40,000 by the Manhattan Institute to make revisions in the ACOEM paper itself, a suggestion Kelman found offensive. A short while later, Kelman explained how the Manhattan Institute paper was an entirely separate project — the writing of a lay translation of the ACOEM paper — and he readily admitted he was paid by the Manhattan Institute to write the lay translation.

This testimony supports a conclusion Kelman did not deny he had been paid by the Manhattan Institute to write a paper, but only denied being paid by the Manhattan Institute to make revisions in the paper issued by ACOEM. He admitted being paid by the Manhattan Institute to write a lay translation. The fact that Kelman did not clarify that he received payment from the Manhattan Institute until after being confronted with the *Kilian* deposition testimony could be viewed by a reasonable jury as resulting from the poor phrasing of the question rather than from an attempt to deny payment.

In sum, Kelman and GlobalTox presented sufficient evidence to satisfy a prima facie showing the statement in the press release was false.